

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

Case. No. 12-20332-02

v.

Honorable Thomas L. Ludington  
Magistrate Judge Patricia T. Morris

D-2, PATRICK RAY SHEPPARD,

Defendant-Petitioner.

/

**ORDER TRANSFERRING SECOND OR SUCCESSIVE HABEAS PETITION TO THE  
COURT OF APPEALS FOR THE SIXTH CIRCUIT**

On January 1, 2013, Petitioner Patrick Ray Sheppard was sentenced to 144 months imprisonment. ECF No. 75. On July 1, 2016, Petitioner filed a motion to vacate his sentence under 28 U.S.C. § 2255. ECF No. 126. On December 15, 2016, Petitioner's motion to vacate was denied with prejudice. ECF No. 141.

On August 6, 2019, Petitioner filed a second habeas petition to vacate his sentence under 28 U.S.C. § 2255. ECF No. 167. An individual seeking to file a second or successive habeas petition must first ask the appropriate court of appeals for an order authorizing the district court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998). Congress has vested in the court of appeals a screening function that the district court would have performed otherwise. *Felker v. Turpin*, 518 U.S. 651, 664 (1996). When a habeas petitioner files a second or successive petition for habeas corpus relief in the district court without preauthorization from the court of appeals, the district court must transfer the document to the court of appeals. *See* 28 U.S.C. § 1631 (directing that “[w]hen a civil action is filed in a court ... and that court finds that there is a want of jurisdiction, the court shall,

if it is in the interest of justice, transfer such action ... to any other such court in which the action ... could have been brought at the time it was filed”); *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997) (holding that “when a prisoner has sought § 2244(b)(3) permission from the district court, or when a second or successive petition for habeas corpus relief or § 2255 motion is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this court pursuant to 28 U.S.C. § 1631.”).

It is **ORDERED** that Petitioner’s habeas petition, ECF No. 167, is **TRANSFERRED** to the Court of Appeals for the Sixth Circuit.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: August 21, 2019

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Patrick Ray Sheppard** #47203-039, ALLENWOOD MEDIUM FEDERAL CORRECTIONAL INSTITUTION, Inmate Mail/Parcels, P.O. BOX 2000, WHITE DEER, PA 17887 by first class U.S. mail on August 21, 2019.

s/Kelly Winslow  
KELLY WINSLOW